

RECEIVED  
CENTRAL FAX CENTER

APR 11 2006



**UNITED STATES PATENT AND  
TRADEMARK OFFICE**

**Facsimile Transmission**

To: Name: Central Fax  
Company:  
Fax Number: (571) 273-8300  
Voice Phone:

From: Name:  
Voice Phone:

**37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).**

**Fax Notes:**

---

---

Date and time of transmission: **Tuesday, April 11, 2006 4:19:26 PM**  
Number of pages including this cover sheet: **04**

---

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 07/31/2006. GPO 0-1150  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
is a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

*(to be used for all correspondence after initial filing)*

Total Number of Pages In This Submission

Application Number 10/826,048

**Filing Date** April 15, 2004

First Named Inventor Richard J. MACKOOL

Art Unit 3783

Examiner Name **Melissa A. McCORKLE**

RECEIVED

## **CENTRAL FAX CENTER**

APR 11 2006

Total Number of Pages in this Supposition

**ENCLOSURES** *(Check all that apply)*

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	1. APPLICANT INITIATED INTERVIEW REQUEST FORM
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	2. CONTINUATION SHEET
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Remarks	

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE		
Signature			
Printed name	ROBERT J. HESS		
Date	APRIL 11, 2006	Reg. No.	32,139

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name LINDA S. HAUFF FAX (571) 273-2773 Date APRIL 11, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Applicant Initiated Interview Request Form

Application No.: 10/825,046  
Examiner: Melissa A. McCorkleFirst Named Applicant: Richard J. MACKOOL  
Art Unit: 3763 Status of Application: Final Rejection

## Tentative Participants:

(1) Robert J. Hess (2) \_\_\_\_\_  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: 4/18/2006

Proposed Time: 10:00 A (AM/PM)

## Type of Interview Requested:

(1)  Telephonic (2)  Personal (3)  Video ConferenceExhibit To Be Shown or Demonstrated:  YES  NO  
If yes, provide brief description: SEE ATTACHED CONTINUATION SHEET.

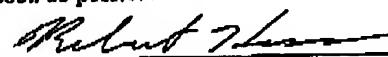
## Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) _____	_____	_____	[ ]	[ ]	[ ]
(2) _____	_____	_____	[ ]	[ ]	[ ]
(3) _____	_____	_____	[ ]	[ ]	[ ]
(4) _____	_____	_____	[ ]	[ ]	[ ]

[ ] Continuation Sheet Attached

Brief Description of Arguments to be Presented: SEE ATTACHED CONTINUATION SHEET.

An interview was conducted on the above-identified application on \_\_\_\_\_.  
NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).  
This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.



Applicant/Applicant's Representative Signature

ROBERT J. HESS

Typed/Printed Name of Applicant or Representative  
32,139

Examiner/SPB Signature

Ref: 103471-51150-US

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

1-800-PTO-9199 is the telephone number for assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Applicant Initiated Interview Request Form - (Continuation Sheet)**

**Issues to Be Discussed**

**Brief Description of Arguments to be Presented:**

Bailly pertains to dentist surgery, not eye surgery devices.

Bailly shows a cover 16 with one end connected to an adaptor 4, while the other end is free.

As best understood, the Examiner's position is that Bailly's cover 16 is connectable to nozzle 7 (although it accommodates insertion of conduit 4). Figs. 2a, 2b, 2c and 3 of Bailly, however, show the nozzle 7 spaced away out of contact from the cover 16 and therefore not disclosed to be connectable to it. There is no reason to so connect, even if it were feasible since either the cover 16 would not be integrally formed with the adaptor 4 or the upstream end of the conduit 4 would become exposed to environment contamination.

Pending independent Claims 1 and 9 recite a sterile, tubular sheath whose distal end is secured to a hollow extension tube and recites that the sheath is secured to the aspiration tube (at a location spaced from the distal end of the expiration tube).